

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

**IN RE BAYCOL PRODS. LITIG.**

**This document applies to all actions.**

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**MDL 1431  
(MJD/SRN)**

**BAYER AND GSK’S SUPPLEMENTAL RESPONSE TO  
THE PSC’S MOTION TO CLOSE THE BAYCOL DOCUMENT DEPOSITORY**

Defendants opposed the PSC’s Motion to Close the Baycol Document Depository because the PSC had not made assurances that the entirety of defendants’ production and the PSC’s work product would be preserved and made available to remaining MDL plaintiffs. *See* Docket Doc. No. 4272. Since defendants filed that opposition, the PSC has clarified that its motion aimed “to destroy the paper copies of the electronic documents that [the PSC] ha[s] been maintaining” and that “[a]nything that was produced in a form other than electronic means . . . will be maintained.” *See* Ex. A (Letter of November 20, 2009).

Defendants have no objection to the PSC’s motion under these terms, and therefore respectfully request that this Court enter an order (1) permitting the PSC to destroy paper duplicates of electronically produced materials, but (2) requiring the PSC to maintain and preserve all documents produced in electronic form and all other documents and things produced in a non-electronic format.

Dated: November 25, 2009

Respectfully submitted,

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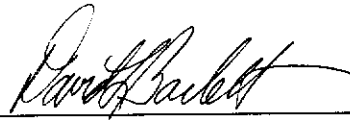
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CERTIFICATE OF SERVICE

I, David L. Barlett, certify that a true and correct copy of the foregoing Supplemental Response to the PSC's Motion to Close the Baycol Document Depository was electronically filed and served on November 25, 2009.



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## **Exhibit A**



November 20, 2009

STACY K. HAUER  
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*Via Facsimile and U.S. Mail*

REPLY TO MINNEAPOLIS

James W. Mizgala  
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RE: *Baycol Products Litigation, MDL 1431*

Dear James:

I am writing to follow up our telephone conversation from earlier today and clarify the intention of the PSC with respect to our motion to close the Baycol document depository. Virtually all of the documents produced by Bayer and GSK were produced electronically. We have all of the original discs and additionally, have all of the documents stored electronically on a hard drive. The focus of the PSC's motion to close the depository is merely to destroy the paper copies of the electronic documents that we have been maintaining.

Bayer and GSK produced very limited discovery that was not in electronic form (i.e. marketing materials). Anything that was produced in a form other than electronic means described above will be maintained. Larson King will likewise maintain other work product to be made available to plaintiffs in the litigation, including deposition transcripts, expert reports, and other essential documents.

It is not the intention of the PSC to create any burden to Bayer or GSK that will require duplication of previous discovery responses. Nothing that was previously available to plaintiffs' counsel will be affected by this motion; anything that is currently available will continue to be available.

If you have any questions or want to discuss further, please let me know.

Very truly yours,

ZIMMERMAN REED, P.L.L.P.

Stacy K. Hauer

SKH/tmo✓

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